

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

STEVEN J. O'BRIEN

Defendant

No. 23cr10179

Violations:

Counts One to Five: Filing a  
False Tax Return  
(26 U.S.C. § 7206(1))

INFORMATION

At all times relevant to this Information:

General Allegations

1. The defendant, STEVEN J. O'BRIEN, lived in Rockport, Massachusetts, where he owned and operated Steve's Landscaping, Inc. ("SLI"), which provided landscaping services to customers in eastern Massachusetts.

2. O'BRIEN was the sole owner of SLI and operated SLI as an "S-Corporation" for federal tax purposes.

3. The Internal Revenue Service ("IRS") was an agency of the United States Department of the Treasury responsible for administering and enforcing the tax laws of the United States, and collecting taxes owed to the United States.

4. To accomplish its mission, the IRS used, among other means, various forms, returns, and return information that taxpayers and employers were required to file pursuant to the tax laws of the United States.

5. As an S-corporation, SLI was required by law to report its annual gross receipts or sales, expenses, and resulting income or loss to the IRS on a United States Income Tax Return for an S Corporation, Form 1120S ("Form 1120S"). Instead of paying federal income taxes

directly, however, SLI's income (or losses) passed through to O'BRIEN as the company's sole shareholder.

6. For tax years 2016 to 2021, SLI annually filed Form 1120S, with an attached Schedule K-1 reporting the corporate income attributable to O'BRIEN personally.

7. Under the Internal Revenue Code and attendant regulations, individual taxpayers generally must accurately report their income, attendant tax obligations, and, where appropriate, any claim for a refund on a U.S. Individual Income Tax Return, Form 1040 ("Form 1040"), which must be filed with the IRS. The Form 1040 includes information from Schedule K-1 of Form 1120S.

8. For tax years 2016 to 2021, O'BRIEN annually filed a Form 1040 with the IRS.

#### The False Tax Returns

9. Between in or about at least 2016 and in or about 2022, O'BRIEN received payments from SLI customers by check. The payments were delivered to O'BRIEN by hand or by mail to his home.

10. O'BRIEN deposited many of these customer checks, or caused them to be deposited, into SLI's business bank accounts at two Massachusetts banks.

11. In many instances, however, O'BRIEN cashed customer checks instead of depositing them into SLI's bank accounts, as summarized below:

<b>Tax Year</b>	<b>Total Checks Cashed</b>	<b>Total Amount Cashed</b>
2016	191	\$140,094
2017	366	\$278,151
2018	376	\$295,248
2019	319	\$293,450
2020	442	\$349,518
2021	360	\$289,149
<b>TOTAL</b>	<b>2,054</b>	<b>\$1,645,610</b>

12. O'BRIEN employed a tax preparer to prepare and file SLI's Forms 1120S and

his personal Forms 1040. To prepare the returns, O'BRIEN gave his tax preparer the bank statements for SLI's bank accounts, but did not tell the preparer that he had also cashed checks made out to SLI in the amount of at least \$1,645,610.

13. O'BRIEN annually signed an authorization for the tax preparer to file his taxes electronically, in which O'BRIEN attested, under penalties of perjury, that he had examined electronic tax returns and that they were true, correct, and complete. The tax preparer then submitted SLI's Form 1120S and O'BRIEN's Form 1040 to the IRS electronically on O'BRIEN's behalf.

14. As an example, on or about February 3, 2017 O'BRIEN caused his tax preparer to prepare a false 2016 Form 1120S for SLI by providing the tax preparer with SLI's bank account statements, while withholding information related to the \$140,094 in customer checks O'BRIEN cashed that year. As a result, the 2016 Form 1120S for SLI reported a loss of \$8,076, rather than a profit.

15. On or about February 22, 2017, O'BRIEN likewise caused his tax preparer to file a false 2016 Form 1040 that underreported his income from SLI. O'BRIEN thereby failed to pay \$42,039 in federal income taxes that he owed on the unreported income.

16. As another example, on or about February 2, 2018, O'BRIEN caused his tax preparer to prepare a false 2017 Form 1120S for SLI by providing the preparer with SLI's bank account statements, while withholding information related to \$278,151 in customer checks O'BRIEN cashed that year. As a result, the 2017 Form 1120S for SLI reported a loss of \$17,791, rather than a substantial profit.

17. On or about February 24, 2018, O'BRIEN caused his tax preparer to file a false 2017 Form 1040 that underreported his income from SLI. O'BRIEN thereby failed to pay

\$91,123 in federal income taxes that he owed on the unreported income.

18. On or about February 8, 2019, O'BRIEN caused his tax preparer to prepare a false 2018 Form 1120S for SLI by providing the preparer with SLI's bank account statements, while withholding information related to the \$295,248 in customer checks that O'BRIEN cashed that year. As a result, the 2018 Form 1120S for SLI falsely reported income of only \$14,272.

19. On or about February 26, 2019, O'BRIEN caused his tax preparer to file a false 2018 Form 1040 that underreported his income from SLI. O'BRIEN thereby failed to pay \$58,212 in federal income taxes that he owed on the unreported income.

20. On or about March 8, 2020, O'BRIEN caused his tax preparer to file a false 2019 Form 1040 that underreported his income from SLI. O'BRIEN thereby failed to pay \$54,335 in federal income taxes that he owed on the unreported income.

21. On or about February 2, 2021 O'BRIEN caused his tax preparer to prepare a false 2020 Form 1120S for SLI, by providing the preparer with SLI's bank account statements, while withholding information related to the \$349,518 in customer checks that O'BRIEN cashed that year. As a result, the 2020 Form 1120S for SLI falsely reported a loss of \$3,818.

22. On or about April 1, 2021, O'BRIEN caused his tax preparer to file a false 2020 Form 1040 that underreported his income from SLI. O'BRIEN thereby failed to pay \$70,558 in federal income taxes that he owed on the unreported income.

23. On or about February 18, 2022, O'BRIEN caused his tax preparer to prepare a false 2021 Form 1120S for SLI by providing the preparer only with SLI's bank account statements and withholding all information related to the \$289,149 in customer checks that O'BRIEN cashed. As a result, the 2021 Form 1120S for SLI falsely reported income of only \$2,800.

24. On or about March 10, 2022, O'BRIEN caused his tax preparer to file a false 2021 Form 1040 that underreported his income from SLI. O'BRIEN thereby failed to pay \$47,646 in federal income taxes that he owed on the unreported income.

COUNTS ONE THROUGH FIVE

Filing a False Tax Return  
(26 U.S.C. § 7206(1))

The United States Attorney charges:

25. On or about the dates set forth below, in the District of Massachusetts and elsewhere, the defendant,

STEVEN J. O'BRIEN,

did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service of a U.S. Individual Income Tax Return, Form 1040, for the tax years set forth below, which were false and fraudulent as to a material matter, in that the Schedules E for the returns underreported the defendant's income from an S corporation, and failed to report income from an S Corporation that, as the defendant then and there knew, he had earned during those years, as set forth below.

Count	Approximate Filing Date	Tax Year	Falsity
1	February 24, 2018	2017	Schedule E, Line 28(h), (\$17,791)
2	February 26, 2019	2018	Schedule E, Line 28(k), \$14,272
3	March 8, 2020	2019	Schedule E, Line 28(k), \$4784
4	April 1, 2021	2020	Schedule E, Line 28(i), (\$3,818))
5	March 10, 2022	2021	Schedule E, Line 28(k), \$2,800

All in violation of Title 26, United States Code, Section 7206(1).

Respectfully submitted,

JOSHUA S. LEVY  
Acting United States Attorney

By: /s/Kriss Basil  
Kriss Basil  
Assistant United States Attorney